



File Code: 1570

Date: December 16, 2011

Jonathan Ratner  
Director - Wyoming Office  
Western Watersheds Project  
P.O. Box 1160  
Pinedale, WY 82941

Dear Mr. Ratner:

You filed a notice of appeal on behalf of Western Watersheds Project, challenging District Ranger Mark Booth's decision on sheep and goat livestock grazing allotments administered by the Powder River Ranger District on the Tensleep project area. This is one of five decisions discussed in the Final Environmental Impact Statement (FEIS) for Livestock Grazing and Vegetation Management, (known as the Big 6 decisions) and one of five decisions addressed in your appeal. District Ranger Booth signed the Record of Decision (ROD) on July 26, 2011.

The appeal period ended November 3, 2011. You sent your appeal electronically with a number of emails and attachments beginning on November 3, 2011. The appeal itself was in the last file which did not arrive until 12:26 am on November 4, 2011, thus, your appeal was not timely filed. I am accepting your appeal this time because the early emails were timely, the appeal document was only 26 minutes late and there was no prejudice to our processing of the appeal. However, I admonish you that it is your obligation under the statute and regulation to ensure timely receipt by the Forest Service of your appeal and any late submissions in the future will not be accepted.

I have reviewed the appeal record, including your appeal, the ROD, and supporting documentation in the project record. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on your appeal including the specific relief requested.

### **Action Appealed**

District Ranger Booth's decision was to select Alternative 3, continuation of permitted livestock grazing on seven allotments using adaptive management strategies.

You requested relief by asking the Forest Service to:

- Withdraw the decision, with any subsequent decision complying with CEQ NEPA regulations.
- Work with appellants to redesign the project to reduce impacts, create additional monitoring, and protect sensitive species and their habitats.
- Develop and fund additional monitoring requirements.



- Perform additional consultation with experts from the Rocky Mountain Research Station, Regional Office and other institutions in developing design criteria.

### **Appeal Reviewing Officer's Findings and Recommendation**

Appeal Reviewing Officer (ARO) Rhonda O'Byrne found that your appeal covered many different aspects of the analysis, including (but not limited to), sensitive species and wildlife viability, compliance with the Bighorn Forest Plan and the sensitive species policy, livestock grazing analysis, watershed conservation practices, use of best available science, forage use, range improvements, adaptive management, and compliance with the Clean Water Act. The ARO identified the appeal issues and assembled a team to respond to each of these. These points and responses are articulated in the attached letter from the ARO.

### **Decision**

From the information provided in the project record, the FEIS and ROD, I find that the District Ranger reasonably decided not to include the full suite of design criteria for bighorn sheep in his decision. The risk assessment and Ranger Booth's ROD both document there have been no documented occurrences of bighorn sheep in the vicinity of the seven allotments in the Tensleep project area. District Ranger Booth made it clear if documented occurrences of bighorn sheep occur in the future, the design criteria and adaptive management would be followed. Also, his decision would be reviewed to determine if management of the allotments should change. The District Ranger's decisions are expressly laid out and the ARO reviewed and concurred with the logic offered in the record aimed at balancing the overall multiple use objectives. I want it to be clear that design criteria and adaptive strategies are actions adopted as part of the District Ranger's Record of Decision. The implementation of these actions are documented in AOIs and/or AMPs, as warranted, and as such become a part of the term grazing permit.

After reviewing the appeal record, I agree with ARO O'Byrne's analysis as presented in the recommendation letter. I find no violation of law, regulation, or policy. Therefore, I have decided to affirm in whole the Ranger's decision, denying your request for relief.

This decision constitutes the final administrative determination of the Department of Agriculture (36 CFR 215.18(c)).

Sincerely,

*/s/ William T. Bass*  
WILLIAM T. BASS  
Appeal Deciding Officer  
Forest Supervisor

Enclosure

cc: Mark D Booth  
John Rupe  
Rhonda L OByrne